

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA**

10 ESTATE OF MARY L. MILES, BY AND  
11 THROUGH ITS SPECIAL  
ADMINISTRATORS (ROBERT E. MILES  
AND HOWARD M. MILES),

12 Plaintiff.

vs.

14 ESTATE OF HELEN S. MCBAIN, CAROL  
15 MERGEN, ALEXANDRA MERGEN,  
ANDREW MERGEN, RBC DAIN  
16 RAUSCHER INC., AND DOES 1-4  
- INCLUSIVE.

## Defendants.

Case No. 2:08-cv-00740-LRH-PAL

**STIPULATION AND ORDER TO  
PERMIT DEFENDANTS TO FILE A  
BRIEF IN RESPONSE TO PLAINTIFF'S  
REPLY TO DEFENDANT RBC DAIN  
RAUSCHER INC.'S REPLY IN  
SUPPORT OF ITS MOTION TO  
DISMISS PLAINTIFF'S COMPLAINT**

20 Plaintiff, the Estate of Mary L. Miles, by and through its Special Administrators  
21 (“Plaintiff”), and defendants RBC Dain Rauscher, Inc., n/k/a RBC Capital Markets Corporation  
22 (“Dain Rauscher”); and the Estate of Helen S. McBain, Carol Mergen, Alexandra Mergen, and  
23 Andrew Mergen (collectively, “McBain”) stipulate and agree as follows:

24 1. Plaintiff filed its complaint captioned above (the "2008 Complaint") on June 9,  
25 2008.

26 2. On February 16, 2009, Dain Rauscher filed a Motion to Dismiss (Document 37).  
27 3. On March 23, 2009, Plaintiff filed its Memorandum in Opposition to Dain  
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1 Rauscher's Motion to Dismiss, and, in the Alternative, in Support of Plaintiff's Motion to  
2 Amend (Document 48).

3 4. On April 14, 2009, Dain Rauscher filed its Reply in Support of Its Motion to  
4 Dismiss Plaintiff's Complaint (Document 53).

5 5. On April 27, 2009, Plaintiff filed its Reply to RBC Dain Rauscher's Reply in  
6 Support of Its Motion to Dismiss Plaintiff's Complaint (Document 55). Plaintiff attached to  
7 this document a proposed amended complaint, titled "Amended Complaint."

8 6. Rather than contest the procedural correctness of the Plaintiff's April 27, 2009,  
9 Reply (Document 55), Plaintiff, Dain Rauscher and McBain stipulate and agree as follows:

10 a. Dain Rauscher and McBain Trust have through and including Tuesday,  
11 May 26, 2009 to file their responses to the Miles Estate's Reply to Defendant RBC Dain  
12 Rauscher's Reply in Support of Its Motion to Dismiss Plaintiff's Complaint (Document 55).

13 b. Upon the filing of the responses from Dain Rauscher and McBain,  
14 briefing shall be complete. The Motions to Dismiss of Dain Rauscher and McBain and the  
15 Motion for Leave to Amend shall thereafter be complete for submission for the Court's rulings.

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1       7.     This stipulation is made in good faith and is not submitted for the purpose of  
2 delay.

3 FABIAN & CLENDENIN, P.C.

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5 LEWIS AND ROCA LLP

6 By: /s/ Kevin N. Anderson  
7 KEVIN N. ANDERSON  
8 Nevada Bar No. 4512  
9 601 South Tenth Street #102  
10 Las Vegas, Nevada 89101  
11 Attorney for Plaintiff

12 Dated: May 6, 2009

13 By: /s/ Von S. Heinz  
14 VON S. HEINZ  
15 Nevada Bar No. 859  
16 Suite 600  
17 3993 Howard Hughes Parkway  
18 Las Vegas, Nevada 89169  
19 Attorneys for Defendant  
20 RBC DAIN RAUSCHER INC.

21 Dated: May 6, 2009

22 SOLOMON DWIGGINS & FREER

23 By: /s/ Jeffrey P. Luszeck  
24 MARK A. SOLOMON  
25 Nevada Bar No. 0408  
26 DANA A. DWIGGINS  
27 Nevada Bar No. 7049  
28 JEFFREY P. LUSZECK  
Nevada Bar No. 9619  
Suite 240  
7881 W. Charleston Blvd.  
Las Vegas, Nevada 89117  
Attorneys for Defendants  
Helen Carol Mergen,  
Individually, and as Trustee  
Of the Helen S. McBain 2000  
Living Trust, Alexandra  
Mergen and Andrew Mergen

Dated: May 6, 2009

29 IT IS SO ORDERED this 8th day of May, 2009.



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